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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/575,076	05/19/2000	David B. Kinder	INTL-0367-US(P8586)	1607

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EXAMINER	
VU, NGOC K	
ART UNIT	**PAPER NUMBER**
2611	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/575,076	KINDER ET AL.	
	Examiner	Art Unit	
	Ngoc K. Vu	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 September 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-11 and 14-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-11 and 14-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/19/05 has been entered.

Response to Arguments

2. Applicant's arguments filed 9/19/05 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the web site hosting facility and the receivers in the homes of the viewers may both receive television programming – see Remarks, first paragraph) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that Parasnis does not cure the deficiency of Hidary, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to argument with respect to claims 1 and 11, the newly added limitation of transmitting television programming including video information to the web site hosting facility as recited in the claims is not supported by the original specification.

In response to argument with respect to claim 21, the system of Parasnis teaches sending scheduling information to the selected server, i.e., netshow server, to schedule the presentation broadcast so that the server can handle expected load when the viewers access the server for viewing the presentation broadcast. This encompasses the feature of enabling the server to prepare for a number of accesses the server from the users in connection with the distributing presentation broadcast. That is, the server of Parasnis's system prepares for a potentially increased access load in response to distributing presentation broadcast.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-11 and 14-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1 and 11 recite the limitation transmitting television programming including video information to the web site hosting facility. However, this feature was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification only describes that the web hosting facility receive the television programming information as a warning that ancillary data, i.e., URL, has been broadcast to a large number of

receivers (see Specification: page 4, lines 21+). That is, the television programming information was not specifically described including "video information" as recited in the claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1, 3-11, 14-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidary (US 5,774,664 A) in view of Parasnis et al. (U.S. 6,728,753 B1).

Regarding claim **1**, Hidary discloses a method comprising sending scheduling information via user interface to server 90 for pre-scheduling URL for transmission to users 118 at particular times of day before broadcast video information (see col. 5, line 50 to col. 6, line 14; col. 6, lines 32-41); and transmitting the video information in the form of television programming (e.g., television show) to a plurality of receivers (users 118) (see col. 6, lines 3-12 and figure 4).

Hidary does not teach sending the scheduling information to server before distributing video program and URL to user to enable the server to prepare for an increase access load. However, Parasnis teaches sending scheduling information to Netshow server to handle a number of accesses when the broadcaster desires to broadcast presentation. Particularly, the broadcaster selects which server, e.g., Netshow or non-Netshow server, for using. The selecting feature also includes sending scheduling information to the selected server to schedule the presentation broadcast. It is noted that non-Netshow server handles maximum 15 users to access the server for watching the presentation, while Netshow server handles more than 15 users. The system provides a web page that contains a URL at which the presentation

broadcast will be viewed. (see col. 14, lines 43-47; col. 14, line 65 to col. 15, line 1; Figure 5 and col. 15, lines 17-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Hidary by providing scheduling information to server, i.e., netshow server, before broadcast video program and URL as taught by Parasnis in order to enable the server to efficiently handling a number of accesses.

Regarding claim **3**, Hidary discloses sending scheduling information, e.g., link file, with video. It is noted that the records in the link file specify the time, URL, label, and some additional information, for each web page the broadcaster desires to launch during a show (see abstract; col. 6, lines 14-25).

Regarding claim **4**, Hidary discloses transmitting the video with embedded URLs over a transport, e.g., satellite, cable, television broadcast, or Internet; and transmitting scheduling information over Internet (see col. 5, lines 1-5; col. 5, line 55 to col. 6, line 12).

Regarding claim **5**, Hidary discloses pre-scheduling URLs for transmitting to the user at a different time than the video transmitting (see col. 5, lines 58-65; col. 6, lines 26-31).

Regarding claims **6** and **7**, Hidary discloses transmitting scheduling information over Internet transport and transmitting video over broadcast transport (see col. 5, lines 1-6 and 58-62).

Regarding claim **8**, Hidary discloses that the uniform resource locators are encoded into the video for transmitting (see col. 4, line 40 to col. 5, line 5 and lines 34-37).

Regarding claim **9**, Hidary discloses automatically transmitting the scheduling information to web site hosting facility (90) after pre-scheduling URLs by broadcaster (see col. 5, lines 55-62).

Regarding claim **10**, Hidary discloses transmitting scheduling information to the web site hosting facility (90) via database (78), or directly from Internet web site (62) (see figure 4; col. 5, lines 50-65; col. 6, lines 26-41).

Regarding claim **11**, Hidary discloses a computer-readable medium storing instructions (software) that cause a processor-based system (e.g., computer) to send scheduling information via user interface to server 90 for pre-scheduling URL for transmission to users 118 at particular times of day before broadcast video information - see col. 5, line 50 to col. 6, line 14; col. 6, lines 32-41); and transmitting the video information in the form of television programming (e.g., television show) to a plurality of receivers (users 118) (see col. 6, lines 3-12 and figure 4).

Hidary does not teach sending the scheduling information to server before distributing video program and URL to user to enable the server to prepare for an increase access load. However, Parasnis teaches sending scheduling information to Netshow server to handle a number of accesses when the broadcaster desires to broadcast presentation. Particularly, the broadcaster selects which server, e.g., Netshow or non-Netshow server, for using. The selecting feature also includes sending scheduling information to the selected server to schedule the presentation broadcast. It is noted that non-Netshow server handles maximum 15 users to access the server for watching the presentation, while Netshow server handles more than 15 users. The system provides a web page that contains a URL at which the presentation broadcast will be viewed (see col. 14, lines 43-47; col. 14, line 65 to col. 15, line 1; Figure 5 and col. 15, lines 17-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Hidary by providing scheduling information to server, i.e., netshow server, before broadcast video program and URL as taught by Parasnis in order to enable the server to efficiently handling a number of accesses.

Regarding claim **14**, Hidary discloses transmitting the video with embedded URLs over a transport, e.g., satellite, cable, television broadcast, or Internet; and transmitting scheduling information over Internet (see col. 5, lines 1-5; col. 5, line 55 to col. 6, line 12).

Regarding claim **15**, Hidary discloses pre-scheduling URLs for transmitting to the user at a different time than the video transmitting (see col. 5, lines 58-65; col. 6, lines 26-31).

Regarding claims **16** and **17**, Hidary discloses transmitting scheduling information over Internet transport and transmitting video over broadcast transport (see col. 5, lines 1-6 and 58-62).

Regarding claim **18**, Hidary discloses that the uniform resource locators are encoded into the video for transmitting (see col. 4, line 40 to col. 5, line 5 and lines 34-37).

Regarding claim **19**, Hidary discloses automatically transmitting the scheduling information to web site hosting facility (90) after pre-scheduling URLs by broadcaster (see col. 5, lines 55-62).

Regarding claim **20**, Hidary discloses transmitting scheduling information to the web site hosting facility (90) via database (78), or directly from Internet web site (62) (see figure 4; col. 5, lines 50-65; col. 6, lines 26-41).

Regarding claim **21**, Hidary discloses a system (see figure 4) comprising: a video distribution device 66, 110; a transport 86 coupled to the video distribution device that distributes video to a plurality of receivers 114 and 16; and storage 70 coupled to the device 110, the storage storing instructions (software) that enable the device to send scheduling information via user interface to server 90 for pre-scheduling URL for transmission to users at particular times of day before broadcast video information - see col. 5, line 50 to col. 6, line 14;

col. 6, lines 32-41); and transmitting the video information in the form of television programming (e.g., television show – see col. 6, lines 3-12 and figure 4).

Hidary does not teach sending the scheduling information to server in advance of distributing video program and URL to users to enable the server to prepare for an increase access load. However, Parasnis teaches sending scheduling information to Netshow server to handle a number of accesses when the broadcaster desires to broadcast presentation. Particularly, the broadcaster selects which server, e.g., Netshow or non-Netshow server, for using. The selecting feature also includes sending scheduling information to the selected server to schedule the presentation broadcast. It is noted that non-Netshow server handles maximum 15 users to access the server for watching the presentation, while Netshow server handles more than 15 users. The system provides a web page that contains a URL at which the presentation broadcast will be viewed (see col. 14, lines 43-47; col. 14, line 65 to col. 15, line 1; Figure 5 and col. 15, lines 17-22). This encompasses the feature of enabling the server to prepare for a number of accesses the server from the users in connection with the distributing presentation broadcast. That is, the server of Parasnis's system prepares for a potentially increased access load in response to distributing presentation broadcast. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Hidary by providing scheduling information to server, i.e., netshow server, before broadcast video program and URL as taught by Parasnis in order to enable the server to efficiently handling a number of accesses.

Regarding **claim 22**, Hidary teaches that the distribution device (66, 110) coupled to the web hosting facility (90) through the Internet (20, 62) and instructions (software) stores in the storage (70) cause the device to automatically notify the web site hosting facility (90) over the Internet before distributing a URL and video to the users (see Hidary: see figure 4; col. 5, lines

50-65; col. 6, lines 26-41). Furthermore, Prasanis teaches notifying the third-party provider over the Internet prior a web page including video and a URL is distributed to the viewers (Parasanis: col. 16, lines 6-28; col. 16-17, lines 63-2; col. 17, lines 10-17; col. 17-18, lines 49-3; col. 27-30; col. 20, lines 23-49, figure 8).

Regarding claim **23**, Hidary discloses two transports (e.g., Internet 20 and broadcast 86) coupled between the video distribution device (66, 110) and the web site hosting facility (90) (see figure 4).

Regarding **claim 24**, Hidary teaches that the instructions (software) stores in the storage (70) cause the video distribution device (66, 110) to automatically notify the web hosting facility (90) via database (78), or directly from Internet web site (62) when a URL will be transmitted with the video distributed to the receivers (118) (see figure 4; col. 5, lines 50-65; col. 6, lines 26-41).

Regarding claim **25**, Hidary discloses video distribution device broadcasts video for distribution to the plurality of receives (see col. 5, lines 1-5).

Regarding claim **26**, Hidary discloses that the uniform resource locators are encoded into the video for transmitting (see col. 4, line 40 to col. 5, line 5 and lines 34-37).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu
Primary Examiner
Art Unit 2611

December 14, 2005